

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Bail Appl.No. 4281 of 2007()

CRIME NO.109/07 OF PATTANAKKAD POLICE STATION
CRMP.2206/2007 of J.M.F.C.-I, CHERTHALA
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PETITIONERS/ACCUSED 1 TO 8 AND 10:

1. LASSAR, S/O. ANTONY,
THYVELICKAKATHU VEEDU, WARD NO.18,
PATTANAKKAD PANCHAYAT.
2. BABICHAN, S/O. ANTONY,
THYVELICKAKATHU VEEDU, WARD NO.18,
PATTANAKKAD PANCHAYAT.
3. SANALKUMAR @ SANAL, S/O. SASIDHARAN,
PULIMPAMPURVEEDU, WARD NO.VI, PATTANAKKAD
PANCHAYAT.
4. HARIDAS @ HARI, S/O. PRABHAKARAN,
PUTHIYAKAVU HARIJAN COLONY, WARD NO.8,
PATTANAKKAD PANCHAYAT.
5. ANTONY @ KUTTAN, S/O. PYLI,
WARD NO.15, PATTANAKKAD PANCHAYAT.
6. IGNASIOUS @ INTHANAM SAJI,
S/O. PYLI, CHIRAYILVEEDU, WARD NO.15,
PATTANAKKAD PANCHAYAT.
7. SANALKUMAR @ SANNAN, S/O.KARTHIKEYAN,
THENNADIYILVEEDU, SOUTH OF KORAYAMPALLY SCHOOL,
WARD NO.20, CHERTHALA MUNICIPALITY.
8. AJITH, S/O. MOHANAN,
NIVARTHILVEEDU, WARD NO.X, CHERTHALA SOUTH
PANCHAYAT.
9. SAIJU @ ANTHIRI, S/O. PURUSHOTHAMAN,
THYPARAMPIL VEEDU, WARD NO.XIV,
PATTANAKKAD PANCHAYAT.

BY ADV. SRI.G.PRIYADARSAN THAMPI
SMT.VEENA KRISHNAN

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTING CIRCLE OF POLICE,
KUTHIATHODU POLICE STATION, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 24/07/2007, ALONG WITH BA NO. 4282 OF 2007 THE COURT
ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.Nos. 4281 & 4282 of 2007

Dated this the 24th day of July, 2007

ORDER

Applications for regular bail. The petitioners are accused 1 to 8, 10, 17 and 18 in a crime registered, inter alia, under Section 302 r/w. 149 I.P.C. The second accused was running a toddy shop under one Joy, the person in whose name the licence was issued. The said Joy terminated the arrangement with the second accused and allegedly entrusted one Rojo to run the toddy shop. The second accused was allegedly infuriated by this conduct of Joy, who terminated the arrangement with him as also with Rojo, who entered into an agreement with the said Joy to run the toddy shop. The said Rojo was putting up a shed for the purpose of running the toddy shop along with his employees and relatives. It is alleged that on 19.4.2007 at about 11.30 p.m. the accused persons, in furtherance of their prior design, formed themselves into an unlawful assembly and unleashed an attack on the persons, who were engaged in the activity of putting up the shed. In the incident three persons suffered injuries, of which one succumbed to the injuries. The crime was registered

showing accused 1 to 6 as named accused as also others. In the course of the investigation, complicity of 26 accused persons has been ascertained. Some of them, including the petitioners, have been arrested. Investigation is now complete. Final report has already been filed on 17.7.2007.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Totally false and vexatious allegations are being raised against the petitioners. As a matter of fact, there was an objection from the local people against putting up of a toddy shop at the place where Rojo intended to run the business. In view of the opposition from the members of the local people, said Rojo and his henchmen were trying to put up a shed clandestinely in the dead of night. There was reaction and resistance against that course. It was when the local people raised objection that some altercation took place and some persons on the side of the said Rojo suffered injuries.

3. The learned counsel for the petitioners pointed out that the deceased is a known goonda of the locality. He has been brought to the scene of the construction by the said Rojo for the purpose of threatening and intimidating the local people. In any view of the matter, the petitioners do not deserve to continue in custody any longer, the incident having taken

place on 19.4.2007 and the final report having filed on 17.7.2007. The petitioners were arrested on various dates between 28.4.07 and 7.5.2007.

4. The learned Prosecutor very vehemently opposes the applications. He submits that the incident shows that the accused persons had conspired together to unleash an attack on the victims on account of prior animosity. The mere fact that the deceased, admittedly a person having a criminal past, was engaged by Rojo, who had entered into an agreement to run the toddy shop, is by itself no indication of the plea that the victims were the aggressors, submits the learned Prosecutor. He also submits that it is evident that a number of known criminals were gathered by the second accused to unleash an attack on the persons, who were proposing to run the toddy shop. The crime is gross. It reveals great depravity of mind. It is a planned attack. Known criminals were brought in to carry out the attack, submits the Prosecutor.

5. The learned Prosecutor further submits that the Courts and the Society have the duty to frown upon such conduct of hired goondas being employed. This is not a case where merely because the investigation is complete and final report has been filed, the accused persons deserve to be enlarged on bail. The nature and gravity of the allegations and the impact

which such a crime leaves behind may also be taken into account along with the materials available to indicate the complicity of the petitioners, submits the Prosecutor. The learned Prosecutor has filed a statement, in which it is shown that the accused persons have the following record of past criminality.

A1 Laser:

1. Crime 214/02 u/s. 307, 34 Indian Penal Code of Pattanakkad PS - case is pending trial.
2. Crime 21/04 u/s.307, 34 Indian Penal Code of Pattanakkad PS - case is pending trial.
3. Crime 30/04u/s. 107 Cr.PC of Pattanakkad PS - case is pending trial.

A2 Babychan

1. Crime 27/04 u/s.307 & 34 Indian Penal Code of Pattanakkad PS - case is pending trial.
2. Crime 30/04 u/s.107 Cr.PC of Pattanakkad PS.

A3 Sanalkumar @ Sanal S/o. Sasidharan

1. Crime No.108/03 u/s.323, 324, 34 Indian Penal Code of Pattanakkad PS.(Case is compounded u/s.320(8)Cr.PC).
2. Crime 69/07 u/s. 143, 147, 148, 149, 324, 326, 307, 34 Indian Penal Code of Pattanakkad PS. (convicted).
3. Crime 223/04 u/w.224(b) 324, 326, 307 34 Indian Penal Code of Pattanakkad PS - case is pending trial.

4. Crime 18/03 u/s.143, 147, 148, 149, 324, 307 I.P.C. of Kuthiyathodu Police Station - case is pending trial.
5. Crime 405/06 u/s. 326, 307, 34 I.P.C. of Cherthala Police Station - case is pending trial.
6. Crime 168/07 u/s. 2(O)(1)(2) of KAAP Rules (declared as goonda vide order No.S3-28498/07 B dt.29.6.07 of Dist.Collector, Allappuzha.

A4 Haridas

1. Crime 140/00 u/s.324, 308 Indian Penal Code of Pattanakkad PS - case is pending trial.

A7 Sanal Kumar @ Sannan

1. Crime 482/04 u/s.143, 147, 347, 323, 294(b), 308 I.P.C. of Cherthala Police Station - case is pending trial.
2. Crime 120/04 u/s.332, 294(b), 34 I.P.C. of Cherthala Police Station - case is acquitted.
3. Crime 305/03 u/w.447, 324, 323, 294(b) of Cherthala Police Station - case is acquitted.
4. Crime 405/06 u/s. 326, 307, 34 I.P.C. of Cherthala Police Station - case is under investigation.

A8. Ajith

1. Crime No.485/06 u/s.395 IP.C. of Cherthala Police Station - case is under investigation.

A10 - Shiju @ Anthiri

1. Crime No.223/04 u/s.294(b), 324, 326, 307, 34 I.P.C. of Pattanakkad PS - case is pending trial.

A17 - Vinod @ Kangaroo Vinod

1. Crime No.152/01 of Alappuzha South P.S. u/s.447, 427, 323, 324 I.P.C. (case is acquitted).
2. Crime 422/02 u/s. 143, 147, 148, 324, 308 I.P.C. of Alappuzha South P.S (case is pending trial.)
3. Crime No.479/03 u/s. 143, 147, 148, 323, 308 I.P.C. of Alappuzha South P.S (case is acquitted).
4. Crime no.527/03 u/s. 143, 147, 148, 149, 308 I.P.C. of Alappuzha South P.S (case is pending trial.)
5. Crime 3/04 u/w. 107 Cr.P.C. of Alappuzha South P.S - Further action dropped.
6. Crime No.539/04 u/s.20B(4) of NDPS Act of Alappuzha South P.S (case is pending trial.)
7. Crime No.120/05 u/s. 447, 324, 308 I.P.C. of Alappuzha South P.S (case is acquitted).
8. Crime 195/03 u/s. 302 I.P.C. of Alappuzha South P.S (case is pending trial.)
9. Crime 219/05 u/s. 110 Cr.P.C. of Alappuzha South P.S - Further action dropped.]
10. Crime 384/05 u/s. 323, 341, 34 I.P.C. of Alappuzha South P.S (case is pending trial.)
11. Crime 28/06 u/s. 8(b), 20(b) of NDPS Act of Alappuzha South P.S (case is pending trial.)
12. Crime 435/99 u/s.143, 147, 148, 149, 395 PC & S.3(a) of PDPP Act of Alappuzha South P.S (case is pending trial.)

A18 Ajayan

1. Crime 254/00 u/s. 143, 147, 148, 149, 323, 324 I.P.C. of Alappuzha South P.S (case is acquitted).
2. Crime 277/00 u/s. 341, 307 I.P.C. of Alappuzha South P.S (case is pending trial.)
3. Crime 153/01 u/s. 506(ii) 332 I.P.C. of Alappuzha South P.S (case is pending trial.)
4. Crime 104/02 u/s. 323, 324, 341, 447 I.P.C. of Alappuzha South P.S (case is pending trial.)
5. Crime 529/03 u/s. 143, 148, 149, 294(b) 332 I.P.C. & 3(2) of PDPP Act of Alappuzha South P.S (case is pending trial.)
6. Crime 155/04 u/s. 392 I.P.C. of Alappuzha South P.S (case is pending trial.)
7. Crime No.539/04 u/s. 20(b) of NDPS Act of Alappuzha South P.S (case is pending trial.)
8. Crime 219/05 u/s. 110 Cr.P.C. of Alappuzha South P.S - Further action dropped.
9. Crime 325/05 u/s. 380, 34 I.P.C. of Alappuzha South P.S (case is pending trial.)
10. Crime 19/07 u/s. 22(b) of NDPS Act of Alappuzha South P.S (case is under investigation.)

6. As against accused 5 and 6 there is no allegation of any involvement in prior crimes.

7. Having considered all the relevant inputs, including the nature and gravity of the offences alleged and the circumstances under which it is committed as also the criminal past of the accused persons, I am of the opinion that notwithstanding the filing of the final report, it is too early to consider the release of the petitioners on bail. Accused 5 and 6 can, of course, be released on bail, subject to appropriate conditions. There shall be a direction to the learned Magistrate to expeditiously complete the proceedings against the accused persons in the crime and a direction to the Sessions Judge also to dispose of the matter as expeditiously as possible. If the committal is not over and the trial does not commence within a period of three months from this date, the petitioners shall, of course, be entitled to approach the learned Sessions Judge or this Court for bail again.

8. With the above observations these applications are dismissed so far as the other petitioners are concerned. Accused 5 and 6 shall be released on bail on the following terms and conditions.

(a) They shall execute bonds for Rs.1,00,000/- (Rupees one lakhs only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) They shall report before the Investigating Officer between 5 p.m. and 6 p.m. on the first Monday of all English Calender months until further orders.

© The petitioners shall not enter the Sessions Division of Allapuzha until further orders except for the purpose of complying with condition (b) above.

9. The learned counsel for the petitioners submits that the second accused happens to be a politician, who is also a member of the Panchayat. I find no reason to take a different view as far as the second accused is concerned as the very allegation is that it was he who planned the crime in this cases.

(R. BASANT)
Judge

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